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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/803,966 | 03/19/2004 | Juha Hyypa | 0837-0166P | 6492 |
| 2292 | 7590 | 06/14/2005 | EXAMINER | |
| BIRCH STEWART KOLASCH & BIRCH | | | WALLING, MEAGAN S | |
| PO BOX 747 | | | ART UNIT | |
| FALLS CHURCH, VA 22040-0747 | | | PAPER NUMBER | |

2863

DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/803,966

Applicant(s)

HYPPA ET AL.

Examiner

Meagan S. Walling

Art Unit

2863

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-5 is/are allowed.
- 6) ☒ Claim(s) 6 and 8 is/are rejected.
- 7) ☒ Claim(s) 7 and 9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/19/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Claim 8 is objected to because of the following informalities: The fourth line reads “second three-dimensional measurement”. It is assumed that it should read “second three-dimensional measurement data”. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 6 and 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Kobayashi et al. (US 2005/0087110).

Regarding claim 6, Kobayashi et al. teaches receiving first three-dimensional measurement data, receiving second three-dimensional measurement data, processing the first measurement data in order to determine the location of tree locations, processing the second measurement data in order to determine the location of tree locations, determining the locations which are tree locations according to the results of both the first and second processing, calculating the growth at the determined locations by determining the difference in the size indicated by the second measurement data as compared to the size indicated by the first measurement data, and producing a result indicating at least the calculated growth (see paragraph 9).

Regarding claim 8, Kobayashi et al. teaches an input for receiving first three-dimensional measurement data and second three-dimensional measurement data (see paragraph 9), and processing means, the apparatus being arranged to: process the first measurement data with the processing means in order to determine the location of tree locations (see paragraph 9), process the second measurement data with the processing means in order to determine the location of tree locations (paragraph 9), determine the locations which are tree locations according to the results of both the first and second processing (paragraph 9), calculate the growth of trees at the determining locations with the processing means by determining the difference in size indicated by the second measurement data as compared to the size indicated by the first measurement data (paragraph 9), and producing a result indicating at least the calculated growth (paragraph 9).

Allowable Subject Matter

3. Claims 7 and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

The primary reason for the indication of allowability of claims 7 and 9 is the inclusion of the limitation of comparing the growth at a plurality of tree locations with at least one predetermined threshold value in order to identify tree locations where the growth is such that an error can be suspected, and calculating the average growth without taking into account the growth at the identified tree locations. It is this limitation in the claimed combination that has not been found, taught, or suggested in the prior art that makes these claims allowable.

4. Claims 1-5 are allowed.

The primary reason for the allowance of claim 5 is the inclusion of the limitation of obtaining first measurement data at a first moment of time by utilizing a laser scanner located above the trees, obtaining second measurement data at a second moment of time by utilizing a laser scanner located above the trees, processing the first measurement data in order to determine the location of tree locations, processing the second measurement data in order to determine the location of tree locations, determining the locations which are tree locations according to both the first and second processing results, and calculating the growth of trees at the determined locations by determining the difference in the size indicated by the second measurement data as compared to the size indicated by the first measurement data. It is this limitation in the claimed combination that has not been found, taught, or suggested in the prior art that makes these claims allowable.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meagan S. Walling whose telephone number is (571) 272-2283. The examiner can normally be reached on Monday through Friday 8:30 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on (571) 272-2269. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2863

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

msw



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